

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

CHESTER RAY EASTHAM, )  
vs. )  
Plaintiff, )  
JUSTIN JONES, et al., )  
Defendants. )  
vs. )  
NO. CIV-12-769-D

**O R D E R**

Plaintiff, who appears *pro se*, brought this action pursuant to 42 U. S. C. § 1983. He alleges that his constitutional rights were violated by the defendants during his confinement at the Lawton Correctional Facility, a private prison. Pursuant to 28 U.S.C. §636(b)(1)(B) and (C), the matter was referred to United States Magistrate Judge Suzanne Mitchell for initial proceedings.

Defendant Justin Jones filed a motion [Doc. No. 21], seeking dismissal of all claims asserted against him in his official and individual capacities. In his response, Plaintiff acknowledged that claims asserted against Defendant Jones in his official capacity should be dismissed on grounds of immunity. On March 28, 2013, the Magistrate Judge filed a Report and Recommendation [Doc. No. 48] in which she recommended the dismissal of the claims against Defendant Jones in both his official and individual capacities.

In the Report and Recommendation, Judge Mitchell advised the parties of their right to file objections to the same, and she set an April 18, 2013 deadline for filing such objections. She also expressly cautioned the parties that a failure to timely file objections would result in a waiver of the right to appellate review of the matters determined in the Report and Recommendation.

The deadline for filing objections has expired, and Plaintiff has not filed an objection to the Report and Recommendation or sought an extension of time in which to do so. Therefore, the

Report and Recommendation [Doc. No. 48] addressing Defendant Jones's motion to dismiss is ADOPTED as though fully set forth herein. The motion to dismiss [Doc. No. 21] all claims against Defendant Jones is GRANTED, and the claims asserted against him are dismissed without prejudice. This matter remains under referral to the Magistrate Judge for consideration of the issues regarding Plaintiff's claims against the other defendants.

IT IS SO ORDERED this 30<sup>th</sup> day of April, 2013.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE